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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: MICHAEL S. FOSTER *ET AL.*

APPLICATION No.: 10/039,814

FILED: OCTOBER 26, 2001

FOR: METHOD AND SYSTEM FOR
RECONFIGURING A PATH IN A
COMMUNICATIONS NETWORK

EXAMINER: DAVID A. WILEY

ART UNIT: 2143

CONF. No: 9498

**Petition to Revive Unintentionally Abandoned
Application Under 37 C.F.R. § 1.137(b)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. The applicants hereby petition for revival of the above-identified application. On May 2, 2002, applicants filed a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii). However, it is our understanding that the United States Patent and Trademark Office has taken the position that the application became abandoned for failure to concurrently file a Notice of Foreign Filing in compliance with 35 U.S.C. 122(b)(2)(B)(iii).

2. Notice Under 37 C.F.R. § 1.137(b)(1)

Enclosed herewith is a Notice of Rescission of Previous Nonpublication Request and Notice of Foreign Filing in compliance with 35 U.S.C. 122(b)(2)(B)(iii).

3. Fee Under 37 C.F.R. § 1.137(b)(2)

Enclosed is a check covering the fee of \$1,300.00 under 37 C.F.R. § 1.17(m).

4. Statement Under 37 C.F.R. § 1.137(b)(3)

The entire delay in filing the required Notice until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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OFFICE OF PETITIONS

5. Duration of Abandonment (1203 OG 86-87, Oct. 21, 1997)

- ☒ This petition is being filed within 3 months of the date on which the Office clarified its position that a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) [PTO/SB/36 (11-00)] is insufficient to comply with the requirements of 35 U.S.C. 122(b)(2)(B)(iii) [Notice of Foreign Filing]. See the "Reminder that Rescission of a Nonpublication Request is Not Itself a Notice of Foreign Filing" signed by Deputy Commissioner Kunin on April 11, 2003. Under current USPTO practice, further information regarding the abandonment is not required.
- ☐ This petition is being filed more than 3 months after the applicant was first notified of the abandonment, but within 1 year of the date of abandonment. Attached hereto is a statement by _____ explaining how the abandonment occurred and how it was unintentional.
- ☐ This petition is being filed more than 1 year after the apparent date of abandonment. Attached hereto is a statement by _____ explaining when the applicant or applicant's representative first became aware of the abandonment and how the delay in discovering the abandoned status occurred despite the exercise of due care or diligence on the part of the applicant or the applicant's representative.

6. Terminal Disclaimer under 37 C.F.R. § 1.137(b)(4) and (c)

- ☒ Since this application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ Since this application was filed before June 8, 1995, a terminal disclaimer is enclosed dedicating to the public a terminal part of the term of any patent granted hereon, and of any patent granted on a continuing application hereof, equivalent to the period of abandonment of this application.

7. Additional Fees

- ☒ Please charge any underpayment in fees for timely consideration of this Petition to Deposit Account No. 50-0665.

Respectfully submitted,
Perkins Coie LLP

Date: June 13, 2003


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